

CITY OF FORT WORTH, TEXAS



COUNCIL PROPOSAL

Date: 08/15/2017	File Number: 310	Subject: City of Fort Worth joining litigation against Texas Senate Bill 4 (SB4)	
Proposed By: Councilmember Carlos E. Flores		City Manager's Review:	Page: PAGE 1 OF 2
		City Attorney's Review:	

It is proposed that:

1. The City Manager and City Attorney are directed to take legal action to join the litigation filed by other cities, governmental entities, and other groups AGAINST Texas Senate Bill (SB4) in the action *styled City of El Cenizo, Texas, et al. v. State of Texas, Civil Action 5:17-CV-00404*, currently pending in the Federal District Court for the Western District of Texas in San Antonio, Texas.

DISCUSSION:

On May 3, 2017, the Texas legislature approved Senate Bill 4, commonly known as the "Sanctuary Cities Bill" ("SB 4") and Governor Greg Abbott signed SB 4 into law on May 7, 2017. The law goes into effect on September 1, 2017. SB 4 applies to the City of Fort Worth's ("the City's") police department and elected officials. The law prohibits adopting, enforcing or endorsing a policy or a practice that would prohibit or materially limit the enforcement of immigration laws.

Under SB4, however, local authorities must permit their officers to investigate the immigration status of every person who is lawfully detained or arrested, except in limited situations. Any person in custody must produce a Texas driver's license or "similar government-issued identification" to avoid extended detention for purposes of an immigration status check if required. Thus, the law amounts to a "show me your papers" action. Also under SB4, local authorities must permit their officers to assist or cooperate with federal immigration enforcement activities as is "reasonable or necessary."

SB4 contains several enforcement provisions and stiff civil penalties. The law authorizes the State to bring an action to impose fines if any municipal officer or employee fails to comply with SB4. If a municipality does not comply with SB4, it may be subject to fines up to \$25,500 for each day of noncompliance after the first day. If a police chief or sheriff refuses to comply with SB4 by failing to honor a detainer request, he or she is subject to criminal prosecution for a Class A misdemeanor. If an elected or appointed official refuses to comply with SB4-for example, by endorsing a policy that would limit the enforcement of federal immigration law-he or she will be subjected to a quo warranto proceeding that could result in forfeiture of and removal from such office.

In light of SB 4's prohibitions and penalties, several public interest groups and governmental entities (including Austin, San Antonio, El Paso County, and El Cenizo) have challenged SB 4 as unconstitutional in a now consolidated lawsuit, styled *City of San Antonio Texas, et al. v. State of Texas, Civil Action No. 5:17-cv-00489*, currently pending in the Federal District Court for the Western District of Texas.

SB 4 raises many constitutional issues. For example, it violates the First Amendment rights of elected and appointed officials because it chills policy dissent. SB 4 is also so vague as to be constitutionally infirm. The law also enables unconstitutional searches, seizures and detentions of United States citizens and Fort Worth residents. SB 4 is also defective because it unlawfully limits the authority of home-rule cities to effectively manage and direct their limited public safety resources so as to protect the public. SB4 infringes on the constitutional and civil rights of City elected and appointed officials and Fort

- ☐ LEGALITY
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Worth citizens and residents. Litigation is necessary to protect the authority of the City to effectively manage and direct the limited public safety resources of the City and to protect the public.

LEGALITY:

The Law Department finds that this proposal is legal and within the authority of the City Council.

FISCAL NOTE:

The Finance Director certifies that this action will have no material effect on City funds. Alternatively, several attorneys have offered to provide their legal services pro bono to assist in representing of the City of Fort Worth in the litigation against SB4.

CITY MANAGER'S COMMENTS:

The City Manager has no objection to this proposal.

PROPOSED BY:

Carlos E. Flores
Councilmember - District 2

JOINED AND SUPPORTED BY:

Ann Zadeh
Councilmember – District 9

Kelly Allen Gray
Councilmember – District 8

Gyna Bivens
Councilmember – District 5

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